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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,525	02/19/2004	Timothy B. Main	59159-15	3268
22504	7590	07/05/2007	EXAMINER	
DAVIS WRIGHT TREMAINE, LLP			MORGAN JR, JACK HOSMER	
1201 Third Avenue, Suite 2200			ART UNIT	PAPER NUMBER
SEATTLE, WA 98101-3045			3782	
MAIL DATE		DELIVERY MODE		
07/05/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/782,525	MAIN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jack H. Morgan	3782

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 November 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 19 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

It instead incorrectly used 37 CFR 1.56(a).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the front and rear panels" in line 19. As the only panels identified were front, back, left, right and bottom, no rear panel was previously identified, and therefore, there is insufficient antecedent basis for this limitation in the claim. For the purpose of examination, examiner takes the limitation as if it read "the front and back panels".

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coad et al. (US 4,541,227) in view of Rosen (US 2,790,591) and Lissner (DE 3,416,710). Coad et al. disclose a paper bale to pack multiple 10 pound bags therein for shipping and storage, the bale having a front panel, a back panel, two side panels and a closed bottom panel wherein the front wall has a crease proximate the bottom panel and the side panels each have an elongate crease therein. Coad et al. do not disclose the panels being multilayered and do not teach an aperture in the middle of the back panel near the top and a cut-away portion in the front panel exposing the aperture.

Rosen discloses a paper bag (Fig 1) having an aperture (17) in the back panel and a cut-away portion (18 and 19) in the front panel which exposes the aperture in order to support the bag while filling. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the paper bale of Coad et al. with an aperture and cut-away portion as taught by Rosen in order to support the bag while filling it, negating the need for clamps and compressors to hold the bale bag open during filling with other filled bags.

Lissner discloses a bale bag constructed out of multiple layers. It is well known in the bag making art that multiple-layer bags are stronger than single layer bags.

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the paper bale of Coad et al. out of multiple layers in order to add strength to the bale bag.

In regards to claims 6-9, while Coad et al. discloses a bale bag of similar dimensions, he does not specifically disclose the bag having a height of 32 inches, a width of 13 inches and a depth of 7 inches with an aperture size of .625 inches. It would have been an obvious matter of design choice to alter the sizes of Coad et al.'s bale bag since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coad et al. (US 4,541,227) in view of Rosen (US 2,790,591) and Lissner (DE 3,416,710) as applied to claims 1-3 and 5-10 above, and further in view of Lawford (AU 113,542). Coad as modified above discloses all the limitations of the claims except for a plurality of ventilation openings in the front and back panels.

Lawford discloses a bale bag provided with ventilation holes in the front and back panels of the bale bag. It would have been obvious to one of ordinary skill in the art at the time the invention was created the bale bag of Coad et al. as modified above with ventilation holes as taught by Lawford in order to allow air-flow through the bale bag to allow the inner bags contents to "breath" thereby extending the contents' shelf-life.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Arkell (US 185,469), Appel (US 584,659), Hartman (US 1,733,345), Kramming (US 4,044,890).
  
6. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone

Art Unit: 3782

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack H Morgan  
Examiner  
Art Unit 3782

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER